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October 15, 2014

BY ECF AND E-MAIL

The Honorable Richard J. Sullivan
United States District Judge
Southern District of New York
40 Foley Square
New York, New York 10007
SullivanNYSDChambers@nysd.uscourts.gov

MEMO ENDORSED

RE: Otoe-Missouria Tribe v. N.Y. State Department of Financial Services,
No. 13-cv-5930 (RJS)

Your Honor:

I write now, on behalf of all parties, pursuant to the Court's Order, dated October 11, 2013 (ECF Doc. No. 40), directing the submission of a joint letter setting forth the parties' views as to the next steps in the litigation within 14 days of the Second Circuit's decision resolving Plaintiffs' appeal from the Court's denial of Plaintiffs' motion for a preliminary injunction.

Plaintiffs commenced this action on or around August 21, 2013, and by an Order to Show Cause, dated August 23, 2013, sought a preliminary injunction seeking to enjoin Defendants' actions in allegedly enforcing New York's usury prohibitions as against Plaintiffs' online lending activities. On September 30, 2013, the Court issued a Memorandum and Order denying Plaintiffs' motion for a preliminary injunction. Plaintiffs took an interlocutory appeal, and on October 1, 2014, the Second Circuit issued an opinion affirming the Court's denial of Plaintiffs' motion for a preliminary injunction.

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While Plaintiffs' appeal was pending, upon the consent of the parties, the Court issued the aforementioned Order, dated October 11, 2013: (1) staying all district court proceedings until the resolution of Plaintiffs' appeal; and (2) ordering the parties to submit a joint letter regarding next steps in this action following the Second Circuit's decision concerning the appeal.

Counsel for the parties have conferred since the issuance of the Second Circuit's opinion on October 1, 2014. Plaintiffs have advised that they will not be pursuing further appellate remedies at this juncture. As such, the parties respectfully request leave to proceed with litigation before the Court as follows.

Defendants have requested, and Plaintiffs have consented to, an extension of time until November 14, 2014 to file a response to the Complaint. In the interim, counsel will be conferring with respect to discovery and scheduling pursuant to Federal Rule of Civil Procedure 26(f), and request until November 14, 2014 to submit their joint Proposed Case Management Plan and Scheduling Order to the Court.

Respectfully submitted,
s/
Linda Fang
Assistant Attorney General

cc: David Bernick, Esq. (via ECF and email)
Counsel for Plaintiffs

SO ORDERED
Date: 
RICHARD J. SULLIVAN
U.S.D.J.
10/15/14